

Sines, et al., v. Kessler, et al. 3:17cv72 10/30/2020

1 UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF VIRGINIA  
3 CHARLOTTESVILLE DIVISION

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4 ELIZABETH SINES, et al.,

5 Plaintiffs,

CIVIL ACTION 3:17-CV-00072

6 vs.

OCTOBER 30, 2020 2:02 P.M.

7 MOTION HEARING VIA ZOOM

8 JASON KESSLER, et al.,

9 Defendants.  
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12 TRANSCRIPT OF MOTION HEARING

13 BEFORE NORMAN K. MOON, UNITED STATES DISTRICT JUDGE

14 WESTERN DISTRICT OF VIRGINIA  
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25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY;  
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1 (Proceedings commenced, 2:02 p.m.)

2 THE COURT: Can you hear me?

3 THE CLERK: Yes, sir.

4 MR. LEVINE: Yes, sir.

5 THE COURT: All right. Before we begin, I will  
6 remind everyone that under standing order 2020-12, the  
7 Court's prohibition against recording and broadcasting court  
8 proceedings remains in force. Attorneys, staff, and any  
9 members of the public accessing this hearing today may not  
10 record or broadcast it.

11 All right. Would you call the case, please?

12 THE CLERK: Yes, Your Honor.

13 This is Civil Action Number 3:17-cv-72, Elizabeth  
14 Sines and others versus Jonathan Kessler and others.

15 THE COURT: Is the plaintiff ready?

16 MR. LEVINE: Yes, Your Honor. Good afternoon. Alan  
17 Levine of Cooley, LLP, for the plaintiffs today.

18 THE COURT: All right. Are the defendants ready?

19 MR. JONES: Yes, Your Honor. Bryan Jones,  
20 representing League of the South, Michael Hill, and Michael  
21 Tubbs.

22 THE COURT: All right. This is on your motion, so  
23 you may proceed.

24 MR. JONES: Thank you, Your Honor.

25 Our motion is based on plaintiffs can't prove they

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1 were injured or suffered damages based on two incidents, the  
2 Fields car attack and the torch march that occurred on  
3 August 11. Because my clients did not conspire with James  
4 Fields -- indeed, Mr. Fields did not conspire with anybody in  
5 perpetrating the car attack -- and because my clients did not  
6 conspire with those involved in the August 11 torch march, it  
7 is our position that all the claims, all the conspiracy  
8 claims, against our clients should be dismissed.

9 Starting with the Fields car attack, the evidence so  
10 far is that James Fields acted alone. He did not plan the  
11 rally. He did not communicate -- as far as we know, there's  
12 no evidence that he communicated with any of the other  
13 defendants in the rally, and simply the evidence simply shows  
14 that he attended the rally, and once the rally was finished,  
15 he acted alone in driving his car into the crowd and  
16 perpetrating that attack.

17 Because it's crucial for the conspiracy claims that  
18 Mr. Fields conspired with some of the other defendants to  
19 commit racial violence on that date, the lack of evidence in  
20 that regard is fatal. Indeed, if the evidence that  
21 plaintiffs have provided in support of the claim that James  
22 Fields was a conspirator, if that were sufficient, then  
23 virtually every attendee at the rally would be part of the  
24 conspiracy. That would stretch conspiracy, not just to this  
25 rally, but at any sort of protest or rally, simply attending

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1 would subject somebody to liability for any damage that  
2 occurred at that rally.

3 That's our position on the -- as far as the  
4 plaintiffs who were injured in the Fields car attack.

5 THE COURT: Let me ask you a question. What is your  
6 understanding of the evidence that he was connected in some  
7 way with Vanguard America?

8 MR. JONES: Your Honor, the evidence cited by the  
9 plaintiffs in their response is that when he arrived at the  
10 rally, he stood next to members of Vanguard; that he held a  
11 shield that was associated with some members of Vanguard; and  
12 that he -- my understanding is that he -- most of time he was  
13 at the rally, he was with members of Vanguard.

14 There's no evidence that he had any connection to  
15 Vanguard before this. In fact, he simply showed up, and they  
16 were the ones that he spent most of the time at the rally  
17 with. There's no -- none of those -- none of the actions  
18 that plaintiffs have cited in support -- the standing next to  
19 them, the wearing a white polo and khakis -- points to a  
20 conspiracy to commit racial violence. It simply shows  
21 somebody participating in and attending a political rally.

22 THE COURT: Well, if he were a member of Vanguard,  
23 and Vanguard was a conspirator, then of course Fields would  
24 likewise be a conspirator with everyone else that could be  
25 proven to have conspired together, correct?

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1 MR. JONES: That may be true, Your Honor. However,  
2 he was actually not an official member of Vanguard.

3 THE COURT: Yeah, I understand your position. Okay.

4 After the 12th, the event on the 12th involving  
5 Mr. Fields, did the League issue any statement which tended  
6 to support or disapprove of him, or anyone on behalf --  
7 speaking for the League?

8 MR. JONES: No, Your Honor.

9 THE COURT: Okay. All right. You may proceed,  
10 then.

11 MR. JONES: Thank you, Your Honor. So that is my  
12 argument on Fields.

13 I would -- I guess to address that last point, Your  
14 Honor, conspiracy, of course, has to be formed beforehand and  
15 in advance, and so I -- it's our position that there's no  
16 requirement that they necessarily disavow or disassociate  
17 themselves after the fact with Mr. Fields.

18 As far as the plaintiffs who were injured in the  
19 torch march, Your Honor, our position on that is also our  
20 clients were not involved with the torch march. The crucial  
21 piece of evidence on this question is an e-mail sent before  
22 the torch march on August 11 from one League of the South  
23 member to Michael Hill, where the member asks whether Michael  
24 Hill and the League is going to be attending the torch march,  
25 and if so, to be careful, because Antifa may have caught wind

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1 of the torch march.

2 Michael Hill's response is: "That is not our game,  
3 but we are sending two observers."

4 Indeed, Michael Tubbs did not even arrive in  
5 Charlottesville until much later in the evening, after the  
6 torch march had occurred. Michael Hill was in Madison,  
7 Virginia, at the campground where they were staying.

8 A handful of League members, perhaps, participated,  
9 but they were doing so in an individual capacity. The League  
10 did not participate or attend in the torch march that  
11 occurred on August 11.

12 So for that reason, because the plaintiffs -- my  
13 clients did not have any involvement in the torch march, the  
14 plaintiffs who suffered injuries as a result of the torch  
15 march cannot recover from my clients.

16 THE COURT: What is the evidence that -- what is  
17 your understanding of the evidence that any member of the  
18 League participated, did anything at the torch march that  
19 caused the injury to any of the plaintiffs?

20 MR. JONES: As far as I know, there's no evidence  
21 that any of the members of the League of the South committed  
22 any violence or injured anybody. There are pictures of Brad  
23 Griffin, who is a member of the League, marching with other  
24 participants in the rally, but there's no evidence that they  
25 participated in any of the violence.



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1 THE COURT: All right, sir.

2 MR. JONES: That's all I'll offer now. I will  
3 reserve some time to respond to plaintiffs.

4 THE COURT: All right. Plaintiffs may -- you may  
5 respond.

6 MR. LEVINE: Thank you, Your Honor. My name is Alan  
7 Levine, from the Cooley law firm, representing the  
8 plaintiffs.

9 So I have a presentation. I just want to be sure  
10 it's okay with the Court if I sit down. I'm accustomed to  
11 standing before the Court.

12 THE COURT: Well, I assume everyone is sitting down.  
13 I don't know why you would stand.

14 MR. LEVINE: Okay. Thank you.

15 THE COURT: Do as you please.

16 MR. LEVINE: Okay.

17 So, Your Honor, we're here in opposition to the  
18 motion for summary judgment. But it's obvious, Your Honor,  
19 there are 11 other individual defendants and nine other  
20 entity defendants that have not made such a motion. Only the  
21 defendants League of the South, Defendant Hill, and Defendant  
22 Tubbs have challenged the evidence. So we will be before  
23 Your Honor in the trial now scheduled, hopefully, for April.

24 Your Honor, the evidence developed during discovery  
25 demonstrates that the defendants -- all, all of the

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1 defendants, including the three defendants making this  
2 motion -- engaged in a conspiracy to commit violence against  
3 black people, Jews, and their supporters, in violation of  
4 42 U.S.C., Section 1985(3), the Ku Klux Klan Act, in the  
5 events of the weekend of August 11 and 12, 2017.

6 The defendants -- the evidence also demonstrates,  
7 Your Honor, that the defendants' intention was to intimidate  
8 black people and Jews and their supporters with threats of  
9 violence, and actual violence, from the equal enjoyment of  
10 rights secured by law to all.

11 Your Honor ruled on a motion to dismiss in this case  
12 and wrote in his decision upholding the complaint that as to  
13 these three movant defendants, we had properly and adequately  
14 alleged a conspiracy; that it was motivated by class-based,  
15 invidiously discriminatory animus; that it was intended to  
16 deprive the plaintiffs of the equal enjoyment of rights,  
17 resulting in injury.

18 Because it's only these three defendants making a  
19 motion, I'm going to confine myself to the proof of their  
20 conduct and participation and respond specifically to the two  
21 points that Mr. Jones has made, as well as two other points  
22 that he has not chosen to argue this afternoon but are  
23 contained in his -- in his brief.

24 Let me just -- and we submitted, Your Honor, a  
25 50-some-odd-page brief. We attached 151 exhibits. And I am

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1 not going to go through the entire brief or all of those  
2 exhibits today, but with the Court's indulgence, I am going  
3 to highlight a number of the exhibits in respect of each of  
4 the arguments that Mr. Jones has made today on behalf of his  
5 clients. But let me just point out some very basic facts at  
6 the outset, Your Honor.

7           The League of the South, the defendant League of the  
8 South, as its published papers say, it sees itself as the  
9 heart and soul of the hard right, an "uncompromising  
10 movement" -- I'm quoting, Your Honor -- "uncompromising  
11 movement of Southern and white nationalists, firm on the  
12 Jewish question and the Negro question," meaning to eliminate  
13 Jews and subordinate blacks.

14           Second, that the defendants, Your Honor, League of  
15 the South and Hill, were invited to participate in the Unite  
16 the Right rally early on and to be involved in the planning  
17 by the defendant Kessler; that defendant Hill solicited  
18 members to attend what he called "defending our Southern  
19 heritage against Jews and their black-skinned allies."

20           Three, that the defendant Hill delegated very  
21 specific League of the South members to be involved in the  
22 planning both on Discord and in other communications. And  
23 the designated people included Brad Griffin, Ike Baker, and  
24 J.C. Adams. And I will be referring to evidence from each of  
25 the three of them this afternoon. And the evidence will show

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1 that each of those three gentlemen, members of the League of  
2 the South, reported back to Hill and to Tubbs on their  
3 performance of their responsibilities.

4 Next, Your Honor, that the defendant Hill delegated  
5 the defendant Tubbs to be in charge of ground operations for  
6 the Unite the Right. It was the defendant Tubbs who set up  
7 uniforms and actually led the formation of League of the  
8 South members and other defendant organization members into  
9 battle on the morning of Saturday, August 12th.

10 And we submitted in connection with our motion  
11 videos of that actual violence that the defendant Tubbs and  
12 his co-conspirators initiated.

13 One other co-conspirator, a gentleman, Defendant  
14 Perry, who has not made a motion, has described the defendant  
15 Tubbs as "proceeding in the head of the formation, with a  
16 full-throttled rebel yell, towering like Tyrannosaurus Rex  
17 over -- among the raptors."

18 Fifth, we will show, Your Honor, that Brad Griffin,  
19 a member of League of the South, delegated by Defendant Hill  
20 as head of communications, participated in the torch march  
21 along with other League members from the Florida chapter.

22 Next, Your Honor, we will show that the defendant  
23 Hill, Tubbs, and Baker and Griffin, each at different times,  
24 coordinated the events of the Unite the Right rally,  
25 including the torch march, with other organization defendants

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1 and individual defendants in this case, including the  
2 defendant TWP, the defendant NSM, the defendant Vanguard  
3 America, and individual defendants Kessler, Parrott,  
4 Heimbach, and Schoep.

5 Next, Your Honor, that the coordination included  
6 Vanguard member -- Vanguard America. Its member James Fields  
7 participated with Vanguard America in Saturday's rally and  
8 committed the criminal act of driving the car into the  
9 protesters, killing -- killing one of the protesters.

10 THE COURT: Stop right there now and summarize the  
11 evidence that you have that Fields belonged to the Vanguard  
12 America group.

13 MR. LEVINE: Your Honor, we will show that -- and  
14 it's in Exhibits 94, 95, and 120 that we submitted in  
15 connection with this motion -- that Fields was in uniform,  
16 the white shirt and khakis of Vanguard America.

17 My microphone has defaulted. Can Your Honor still  
18 hear me?

19 THE COURT: I hear you.

20 MR. LEVINE: So those exhibits show that Fields  
21 stood with and participated with Vanguard America on the day  
22 of the rally, and it shows the defendant Fields next to  
23 Thomas Russo, who was the leader of Vanguard America. And  
24 they are standing behind the defendant Kline, who you know  
25 from earlier proceedings in this case. The defendant Fields

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1 showed up in uniform, Your Honor, from which --

2 THE COURT REPORTER: I'm sorry. You're going in and  
3 out, Mr. Levine. We've lost your video feed.

4 (Pause in proceedings.)

5 THE COURT: You're back.

6 MR. LEVINE: Sorry, Your Honor.

7 So I was saying Exhibit 120 shows the defendant  
8 Fields along with other members of Vanguard America in  
9 formation behind the defendant Elliot Kline, who Your Honor  
10 is familiar with. And the defendant Fields is wearing the  
11 white shirt and khakis uniform of Vanguard America and is  
12 carrying -- is carrying a shield.

13 Thomas Russo, the acknowledged leader of Vanguard  
14 America, testified in his deposition, Your Honor, that James  
15 Fields participated with them as a member in the rally that  
16 day. And the same testimony was given by the witness Dillon  
17 Hopper.

18 So we also, Your Honor, are entitled at this stage  
19 of the evidence to any inferences that can be drawn from  
20 those facts. And I would submit to Your Honor that appearing  
21 next to and with the other members of Vanguard America, in  
22 the uniform of Vanguard America, not in the uniform of any of  
23 the other groups, raises the inference that he did  
24 participate as a member with them, just as Mr. Russo  
25 testified.

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1 Now, we also have evidence about the car attack, but  
2 I think Your Honor just asked me what the evidence is of his  
3 participation in the rally.

4 THE COURT: Yeah, I just asked for proof of his  
5 connection with Vanguard.

6 MR. LEVINE: So that is our evidence of his  
7 connection with Vanguard that day.

8 Mr. Fields has not participated in discovery. We  
9 have not taken his deposition. So the allegations that  
10 Mr. Jones is making about Mr. Fields and conversations and  
11 the like, it's just -- there's no evidence, Your Honor,  
12 because Mr. Fields has not participated in discovery.

13 Finally, Your Honor -- and this relates to a point  
14 in their brief that Mr. Jones did not argue today -- the  
15 assault on DeAndre Harris in the Market Street garage, we  
16 will show, was a violent assault on a black man by a group of  
17 individuals, including a member of League of the South. And  
18 Your Honor will see an exhibit that we have marked, which  
19 I'll refer to later, of the defendant Tubbs looking on over  
20 that assault in the location at the time.

21 So, Your Honor, we will show, based on this review  
22 of the evidence, that the allegations that Mr. Jones has  
23 made -- not the allegations -- the statements that Mr. Jones  
24 has made that his clients did not participate in League of  
25 the -- in the torch march, and thus the torch march was not

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1 an act in furtherance of the conspiracy that they  
2 participated in, we will show that that's a false narrative.  
3 There's abundant evidence of participation by the League of  
4 the South and ratifying the torch march by -- by the  
5 defendant Hill.

6 Similarly for Fields, Your Honor, apart from what I  
7 just said, we will show, Your Honor -- it's Exhibits 120  
8 and -- I forget right now; I will come to it during my  
9 argument -- that defendant Tubbs ratified the defendant  
10 Fields' car attack and said on four occasions -- I think it's  
11 Exhibit 151 -- on four separate occasions on Twitter,  
12 Mr. Tubbs, the defendant Tubbs, said: "James Fields did  
13 nothing wrong."

14 Third, Your Honor, we will show, although Mr. Jones  
15 didn't argue it, that the argument about Antifa and this  
16 being a political rally is just simply not consistent with  
17 the evidence.

18 The defendants League of the South, Hill, and Tubbs  
19 joined the Unite the Right rally as an alt-right rally with  
20 co-conspirators committed to violence against blacks, Jews,  
21 and their supporters. And we will show, based on words  
22 coming out of League of the South members themselves, that  
23 they considered Antifa supporters of blacks and Jews. And  
24 this is exactly what the statute was intended to cover.

25 I also just said that we will show that the Saturday



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1 afternoon assault on DeAndre Harris was very much an act in  
2 furtherance of the conspiracy.

3 As I said, Your Honor, in reference to the  
4 discussion of Mr. Fields, at this point, what the defendants  
5 have -- movants have done here is simply present an  
6 alternative narrative to the proof that we will show,  
7 presenting, if you will, a genuine issue of material fact.  
8 We submit these arguments are essentially a factual  
9 narrative -- we say, false narrative -- of what the  
10 defendants did in this case, and it will be for the jury to  
11 decide.

12 At this stage, as I said in relation to Fields, the  
13 law is clear that we're entitled to the inferences to be  
14 drawn from the facts. And as Your Honor has cited before, at  
15 this stage of proceedings, credibility determinations are to  
16 be left for the jury.

17 And that rule of law, Your Honor, is particularly  
18 important in this case, since, essentially, the narratives  
19 that the defendant movants assert here are self-serving  
20 statements in affidavits which themselves, Your Honor, are  
21 contradicted by their conduct in this case, by their  
22 statements before, by their conduct at the time, and by their  
23 statements afterwards.

24 THE COURT: Do you have any evidence -- just  
25 summarize it for me, if you will -- that the members, any

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1 member of the League, had access to Discord group  
2 Charlottesville 2.0?

3 MR. LEVINE: Yes, Your Honor. The evidence will  
4 show that the defendants Baker, Griffin, Adams, and Durham  
5 were all delegated as representatives by Hill to participate  
6 in the planning.

7 And let's take Mr. Baker first, Your Honor. The  
8 evidence will show that Hill, Defendant Hill, told the  
9 defendant Tubbs that he directed Baker to be chief of  
10 operations and he, Baker, handled the on-the-ground planning  
11 for Unite the Right and was delegated by Hill to work with  
12 Kessler and others on Discord.

13 Exhibit 122, Your Honor. 122 is -- let me just get  
14 to it in my book, Your Honor.

15 Exhibit 122, Your Honor, is a communication between  
16 Hill and Tubbs delegating Baker to be the contact with the  
17 Charlottesville Police Department for Unite the Right on  
18 security for Saturday and reporting back to Defendant Hill on  
19 what he did.

20 And Exhibit 25, Your Honor, is a message from  
21 Mr. Baker to the defendant Hill about the participation of  
22 Jeff Schoep, the defendant Schoep, and the National Socialist  
23 Movement. And Exhibit 25 is a message from Baker to him in  
24 which he says, "Jeff Schoep" -- this is from July 13th, 2017,  
25 Your Honor. "Jeff Schoep is one hundred percent on board,

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1 sir. He accepted our terms unequivocally and without  
2 hesitation. He also asked to be kept abreast and that I  
3 coordinate NSM participation with two of his people, one of  
4 whom I'm well-acquainted with."

5 Next, Your Honor, on August 12, Baker participated  
6 with the defendant Tubbs in giving instructions to the  
7 warriors from League of the South and others in the  
8 Nationalist Front on Saturday morning at the Market Street  
9 garage.

10 Next, Your Honor, on Exhibit 27, after the fact,  
11 this same Ike Baker reported to another person that, quote,  
12 "I" -- it's a little out of context because it's relating to  
13 a new event that they were going to plan, but Baker is  
14 discussing what they did for Unite the Right, and he says, "I  
15 have sought legal advice concerning our shields and other  
16 defensive appurtenances, such as clubs and batons, many of us  
17 used to great effect last summer in Charlottesville."

18 Now, that shows Baker's cooperation and  
19 participation in planning the events with other  
20 co-conspirators and with the events of this day.

21 J.C. Adams, Your Honor, also a member of the League  
22 of the South, also delegated by the defendant Hill to  
23 coordinate.

24 Exhibit 12. Exhibit 12, Your Honor, is on Discord,  
25 and J.C. Adams used Discord and took on the role of planning

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1 for UTR with other nationalist front organizations. The  
2 exhibit, Exhibit 12, Your Honor, actually announces to the  
3 group that: "There is a planning/reminding of the agenda for  
4 the next meeting. Currently meetings are held at the  
5 Whitewater Grill in Ocoee, Tennessee, on Thursdays at 7 p.m."

6 So J.C. Adams, Your Honor, participated in and  
7 coordinated organizational meetings relating to Unite the  
8 Right, which were, in part, announced on Discord.

9 The day that that meeting, Your Honor -- this is  
10 interesting; probative, I would submit. That meeting took  
11 place on July 9, 2017, and Exhibit 11, Your Honor, is a  
12 Discord chat 2.0 -- Discord chat from Charlottesville 2.0, in  
13 which J.C. Adams is saying -- obviously after the  
14 co-conspirators meeting the day before, he says, quote, "The  
15 hate van will come stocked with some shields from the TWP,"  
16 which is the co-defendant Traditionalist Worker Party, "with  
17 a TW" -- "from the TWP Goys," G-O-Y-S.

18 So not only do we have the J.C. Adams delegated by  
19 defendant Hill, participating in planning on Discord, but he  
20 also is participating and planning separately at actual  
21 meetings of participation, certainly acts in furtherance of  
22 the conspiracy.

23 Then, Your Honor, on the day, on the -- three days  
24 before the event, also on the Charlottesville 2.0, is a  
25 hideous exhibit, Your Honor. It's Exhibit 9, and it is from

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1 J.C. Adams, and it was in the course of a long chat, several  
2 pages, involving many participants and the co-conspirator  
3 Defendant Kessler. And it is a picture, Your Honor, of a  
4 hand turning up a knob on an oven, and J.C. Adams' statement  
5 on Charlottesville 2.0 is, "What's that I smell," question  
6 mark.

7 Later in the chat, one of the participants on  
8 Charlottesville 2.0 says, "@JCAAdams," quote, "get the ovens  
9 warmed up, Goyim," G-O-Y-I-M.

10 And finally, Your Honor, as to J.C. Adams, not on  
11 the Charlottesville 2.0 server, but from the day of the event  
12 is Exhibit 92, which is one of the videos. And we submit in  
13 that -- in that video, at the 44-minute mark, is a picture of  
14 J.C. Adams participating with other members of League of the  
15 South in throwing a woman protester on the ground, a whole  
16 group of them together. You can hear them screaming "Leave"  
17 to her. They mace her.

18 And when I asked the defendant Hill during his  
19 deposition whether that was an act of self-defense, he  
20 admitted that it was not.

21 So that's J.C. Adams, Your Honor.

22 All right. There's also evidence of the  
23 defendant -- of the -- of Mr. Griffin. And I can get to that  
24 right now, Your Honor, or talk about that in connection with  
25 the torch march.

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1           Let me just go back, Your Honor, to point out the  
2 events relating to the defendant Hill in this case. He  
3 solicited participation of the League of the South members;  
4 and there are many, Your Honor, but the one that's most  
5 expressive, I submit, is Exhibit 90, where the defendant Hill  
6 said, quote -- and this was in July of 2017. Quote, "If you  
7 want to defend the South and Western Civilization from the  
8 Jew and his dark-skinned allies, be at Charlottesville on 12  
9 August."

10           And Dr. Hill -- Defendant Hill didn't just solicit  
11 his own League of the South members to participate; he also  
12 solicited participation from the members of the Nationalist  
13 Front, including the NSM, the National Socialist Movement.

14           And Exhibit 29, Your Honor, is remarks that he wrote  
15 and sent to Ike Baker, who I was just referring to, for Ike  
16 Baker to deliver physically at a meeting of the NSM and  
17 soliciting their participation. The defendant Hill said,  
18 quote, "We are compassed around with enemies who seek our  
19 destruction from above in the form of the International Jew  
20 and his white Gentile traitor allies to below in the dark  
21 shape of the Negro, Mestizo, and Muslim street thug. We are  
22 beset by those who despise us and all we hold dear. The time  
23 has come when white men of the West must put aside their  
24 petty differences and unite for our very survival and  
25 well-being."

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1 Hill also, as I said, delegated Baker, Griffin,  
2 Adams, and Durham as representatives of the League involved  
3 in organizations.

4 Defendant Hill also took charge himself in  
5 fabricating shields that would be used by the League of the  
6 South members in the actual rally and were used that day as  
7 weapons. And Exhibit 28, Your Honor, is one of his  
8 communications relating to fabricating those shields.

9 The evidence also shows, and it's in our brief, of  
10 Hill and Tubbs regularly communicating with one another, and  
11 Hill soliciting Tubbs' advice and Tubbs' participation.

12 On the --

13 THE COURT: What is your evidence, your best  
14 evidence, that they were involved in the torchlight parade on  
15 the 11th?

16 MR. LEVINE: Your Honor -- first understand, Your  
17 Honor, that the torch march was part of the event from the  
18 very beginning. And the -- it was explicit on Discord that  
19 it was to be kept quiet. Even though different people,  
20 including Baker for League of the South, met with the  
21 Charlottesville Police Department, they never disclosed to  
22 the Charlottesville Police Department -- and that was agreed  
23 upon, Your Honor. They never disclosed to the CPD the fact  
24 of the torch march rally.

25 THE COURT: But was the League involved in that?

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1 MR. LEVINE: Yes, it was, Your Honor. So Brad  
2 Griffin, who was chief of communications -- it's Exhibit 19,  
3 Your Honor. Brad Griffin, in a conversation in the middle of  
4 July, told one of the other co-defendants in the case, Andrew  
5 Anglin, quote, "Everyone is coming to Charlottesville." He  
6 said, "The League has a private summer retreat reserved for  
7 the weekend. I've heard Dr. Duke is coming and will have  
8 some kind of surprise role. We're going to do the torchlight  
9 parade again."

10 Then, Your Honor, Exhibit 52, on Discord is a  
11 conversation from in or about July 3rd, 2017 between  
12 Mr. Griffin and the defendant Kessler. And Kessler says to  
13 Griffin, "Make sure your guys bring plenty of tiki torches."  
14 And Griffin responds, "Yes, we have to create a buzz."

15 Then, Your Honor, Griffin did attend with his wife  
16 and several other members of the League. And Exhibit 147,  
17 Your Honor, 147 is a tweet -- maybe YouTube -- no, it's a  
18 tweet, with a picture from YouTube by Tyler Davis. It's  
19 Exhibit 127. And next to one of the iconic photos of the  
20 participants in the torch march, Tyler Davis says, quote,  
21 "Still getting chills from this," referring to the torch  
22 march. "Florida League was there that night before the  
23 rally," referring to the League chapter from Florida.

24 And there is Exhibit -- there is -- in the brief is  
25 an exhibit of Mr. Griffin, Brad Griffin, at the torch march



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1 in the shirt of the League of the South.

2 Finally, Your Honor, Exhibit 105. Once again, Brad  
3 Griffin -- let me just find my -- 105, Your Honor. On  
4 Discord, Brad Griffin says, quote -- and it's not the name  
5 Brad Griffin; it's his name for purposes of his activities,  
6 Hunter Wallace. He says, quote, "The scariest optics by far  
7 to normies," referring to normal people, "was the torchlight.  
8 The rally itself was tame by comparison."

9 So the evidence shows abundant evidence of  
10 participation by one of the League chapters in the torch  
11 march, including the planning leading up to it.

12 The evidence also shows, Your Honor, that the  
13 defendants Hill and Tubbs didn't attend the torch march  
14 because they rejected the torch march as an act in  
15 furtherance of the conspiracy.

16 The campground where they were staying was some  
17 40 minutes outside the city of Charlottesville, and each of  
18 them testified that that evening there was a meeting between  
19 them and members of the NSM and TWP, the other  
20 co-conspirators, about the rally the next day.

21 So, Your Honor, the evidence will show that the  
22 League actually participated in the event. And as for Hill  
23 and Tubbs, the conspiracy law is clear that they don't have  
24 to participate in each act in furtherance of the conspiracy  
25 to be liable as a member of the conspiracy and for the

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1 injuries that were suffered, which were reasonably  
2 foreseeable. Neither the defendant Hill nor the defendant  
3 Tubbs withdrew from the conspiracy because they were opposed  
4 to it on tactical grounds.

5 And, Your Honor, you asked Mr. Jones if they  
6 disavowed the torch march, and the evidence actually is the  
7 opposite, Your Honor.

8 Exhibit 15. Exhibit 15 is a video shortly after the  
9 events of an interview that one of the other League members  
10 had with the defendant Hill. And if you listen to that  
11 video, Your Honor, you will learn that Hill ratified the  
12 torch march in the weeks after, after Unite the Right rally,  
13 complimenting on its effect, making the point that he was so  
14 impressed with its effect that the League would consider  
15 doing it in the future.

16 So, Your Honor, we submit that, at best, the  
17 argument that Hill and Tubbs are making that, since they  
18 weren't at the torch march rally, they couldn't be -- it  
19 couldn't be an act in furtherance of the conspiracy is, at  
20 best, a factual narrative and argument which they should be  
21 submitting to the jury. This torch march was every bit a  
22 part of the Unite the Right rally, and they knew about it  
23 months ahead of time.

24 I can go now to -- I'd just like to go back, Your  
25 Honor, and review, if I could, for the Court the evidence,

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1 isolated evidence, about -- finish the evidence about Hill,  
2 with one matter that I haven't yet been able to review with  
3 the Court, and then talk about the defendant Tubbs.

4 After all -- after the Unite the Right day was over  
5 and the only -- the only thing, if you will, that the  
6 defendants could show for the rally itself on Saturday  
7 morning was the violence that ensued, because no speeches  
8 took place, Your Honor. The governor declared an unlawful  
9 assembly and the parties were all dispersed. In spite of the  
10 fact that Dr. Hill didn't get to speak, there were no  
11 speeches, and the only events of the day were violence, the  
12 defendant Hill called it a great day in the life of the  
13 League of the South, and said, "Our warriors" -- not "our  
14 members," Your Honor -- "Our warriors acquitted themselves as  
15 men," particularly complimenting the defendant Tubbs. And  
16 that's Exhibit 34.

17 And let me just focus for a few minutes, if you  
18 will, on the defendant Tubbs.

19 The defendant Tubbs was a member of the League since  
20 he was released from federal prison, where he served a  
21 sentence for unlawful weapons conviction while in the U.S.  
22 Army. And that conviction, Your Honor, related to the  
23 results of a search and seizure on his premises which found a  
24 cache, C-A-C-H-E, of automatic weapons and others that were  
25 to be used to advance white nationalist objectives. And we

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1 have an exhibit we've submitted about that conviction.

2 Tubbs became chief of staff for League of the South  
3 and was appointed by Hill as the head of ground operations.

4 Exhibit 121, Your Honor, is a message from the  
5 defendant Hill to the defendant Tubbs reporting to him that  
6 Baker and Durham, the two members of the League that Hill had  
7 delegated specific responsibilities to, would be reporting to  
8 Tubbs as his lieutenants in the Unite the Right.

9 It's the defendant Tubbs, Your Honor, that  
10 supervised and decided on the military-style uniforms that  
11 would be used by the League members for the day. It's the  
12 defendant Tubbs that met with participants on the roof of the  
13 Market Street garage from the League, from TWP, and from NSM,  
14 and spoke to them about plans for the march on that morning  
15 and gave instructions. It's the defendant Tubbs that led the  
16 formation marching into Emancipation Park.

17 And the picture of that, Your Honor, we included in  
18 paragraph 212 of the second amended complaint. And  
19 Exhibit 92 is a video showing the defendant Tubbs at the  
20 front of the formation. That video and others, Your Honor,  
21 show that it's the defendant Tubbs that initiated the attack  
22 on the counter-protesters and engaged in violence himself.

23 And, Your Honor, Exhibit 101 shows the defendant  
24 Tubbs. He is well over 6 feet tall. He towers over all of  
25 the other people, like the co-defendant Parrott said.

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1 And just as the defendants Hill and Tubbs planned,  
2 the shields and poles, the poles of the flags, were used as  
3 weapons. And Your Honor can see that in the videos that  
4 they -- that we have submitted.

5 So it's disingenuous, Your Honor, for Mr. Jones to  
6 say, as he has in his motion, that, since Hill and Tubbs  
7 didn't have actual access to Discord, that they weren't  
8 involved in the planning and can't be responsible as  
9 co-conspirators.

10 They did have access. But more importantly, they  
11 delegated the responsibility of acting for them and for the  
12 League to the individuals that I referred to.

13 And this is a paramilitary organization, Your Honor,  
14 that insists on the chain of command. And Your Honor will  
15 see references to Baker and Adams reporting to Hill and/or  
16 Tubbs, and then to Hill, on what they were doing in  
17 furtherance of the conspiracy and in furtherance of the  
18 participation.

19 Also, Your Honor, it should be noted that the  
20 defendant Tubbs spoliated evidence in connection with the  
21 Unite the Right rally. He destroyed, spoliated, text  
22 messages during the very important period before the rally  
23 and deleted his League of the South e-mail account for the  
24 relevant time period.

25 I think I've covered what I have to say on the torch

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1 march. Let me go to the defendant Fields.

2 I'm not going to repeat -- repeat myself, Your  
3 Honor, about the evidence of his participation in the  
4 conspiracy. We submit that there's more than enough direct  
5 evidence of his participation and circumstantial evidence of  
6 his agreement to participate with Vanguard America and  
7 Vanguard America's agreement that he -- that he, Fields --  
8 would be participating with them; more than sufficient to get  
9 that proof to the jury.

10 One thing that Mr. Jones said to Your Honor, which I  
11 take strong exception to: There actually is -- the evidence  
12 shows, Your Honor, that there isn't any written membership  
13 list of Vanguard America. The witness Hopper, who was head  
14 of Vanguard America, said there are no records maintained of  
15 who the members are.

16 Thomas Russo, who was the leader of Vanguard America  
17 on the ground that day, testified that the defendant Fields  
18 was allowed to participate as a member with Vanguard America  
19 at the rally.

20 So not only does the Court have the direct evidence  
21 of what Fields did, the circumstantial evidence of Fields  
22 wearing a uniform -- which raises the inference, we submit,  
23 that there was communication and he knew what the uniform  
24 was -- third, we have direct evidence from the leader of  
25 Vanguard America that they considered Fields a member for

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1 that day.

2 And Your Honor is familiar with this evidence  
3 because you referred to it in the decision on the motion to  
4 dismiss. Exhibits 6, 8, and 44 are all communications from  
5 Discord among participants, among participants in the Unite  
6 the Right rally, discussing using a vehicle for violence on  
7 counter-protesters. It was so that a member of one of the  
8 national front organizations, that one of the members here,  
9 Mr. Fields, actually drives a car into the protesters was a  
10 reasonably foreseeable event from that evidence from Discord.

11 And just like the defendant Hill, Your Honor,  
12 ratified the torch march after the fact, even though he  
13 didn't participate, we have the same kind of evidence for the  
14 defendant Tubbs.

15 So it is disingenuous for Mr. Jones to describe how  
16 little contact they had with the defendant Fields, because  
17 the defendant Tubbs said, on four separate occasions -- and  
18 it's Exhibit 151 -- that James Fields did nothing wrong.

19 THE COURT: Is there any effort still going on to  
20 obtain discovery from Fields?

21 MR. LEVINE: Yes. We hope to have his deposition  
22 done before the trial, Your Honor.

23 THE COURT: Okay. Judge Hoppe, I think, has  
24 authorized that, I believe.

25 MR. LEVINE: I believe, Your Honor.

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1 Your Honor, we submit that there's more than  
2 sufficient evidence of coordination, particularly in light of  
3 Russo's testimony that they considered Fields a member.

4 And, Your Honor, the Fourth Circuit cases *Scott*,  
5 *Society Without a Name*, *Henkel*, *Simmons*, all of those cases  
6 which have actually thrown out conspiracy counts, all did  
7 because there wasn't any evidence of joint action, and it was  
8 all -- it was -- it was one -- it was two or three people  
9 just acting simultaneously.

10 This case, Your Honor, is a very different case, and  
11 we submit that this is more like, Your Honor, the *Leonard*  
12 case in the Seventh Circuit that we've quoted. And even the  
13 facts here are better than the *Leonard* case, because the  
14 defendant Fields, Your Honor, joined with the defendant  
15 Vanguard America, which was a co-conspirator in the Unite the  
16 Right rally.

17 And Your Honor said to Mr. Jones, if Vanguard  
18 America is a co-conspirator and the defendant Fields was a  
19 member of Vanguard America, there's sufficient evidence that,  
20 we submit -- Your Honor didn't say this. There's sufficient  
21 evidence, we submit, that Fields is a co-conspirator and that  
22 his conduct was in furtherance of the conspiracy; certainly  
23 sufficient to put to the jury.

24 There are two other points that Mr. Jones makes in  
25 his brief, Your Honor, that he didn't make in oral argument.



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1 He reserved time. I don't know whether I should reserve time  
2 and go behind him, but I'll come right out right now and give  
3 you our summary of those arguments.

4 One is, Your Honor, they claim, they argue, that the  
5 violence here wasn't directed at blacks and Jews and their  
6 supporters; that these white nationalist organizations are  
7 simply -- were simply engaged in a political, a political  
8 rally, and they attempt to squeeze this Unite the Right rally  
9 into those 1985(3) cases, where the Court has thrown out the  
10 1985(3) count because the target of the violence was a  
11 political opponent.

12 Your Honor, our view is this is a revisionist  
13 narrative for what happened. The whole thrust of the Unite  
14 the Right rally was to bring together in one place the white  
15 nationalist organizations.

16 The core group of defendants in this case, Your  
17 Honor, that Kline -- that defendants Kline and Kessler  
18 reached out to get participation is the four organizations in  
19 the Nationalist Front: League of the South; Traditionalist  
20 Workers Party, TWP; NSM, National Socialist Movement; and  
21 Vanguard America.

22 And, of course, I read to you what the defendant  
23 Hill said about, "If you want to save the South, come fight  
24 the Jew and his dark-skinned allies." But let me read, Your  
25 Honor, from Exhibit 19. And this is one of those just

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1 bullets of evidence that puts -- puts how untruthful and  
2 disingenuous it is to argue that this Unite the Right rally  
3 was going to be a political rally.

4 Brad Griffin, the head of communications who I've  
5 referred to, who was at the torch march, is e-mailing back  
6 and forth with the defendant Andrew Anglin, who is with the  
7 Daily Stormer, a very prominent white nationalist in the  
8 country; and Exhibit 19, Your Honor -- in Exhibit 19,  
9 Mr. Griffin is describing to Anglin how they put together the  
10 participants for the Unite the Right rally. This  
11 conversation back and forth takes place on July 16. The  
12 leader of TWP was a man by the name of Matt Heimbach,  
13 Defendant Heimbach, and Brad Griffin is saying to Anglin -- I  
14 hope I've set this up so that Your Honor can follow it,  
15 because this is a very significant piece of evidence.

16 So he says to Anglin, "So what's going on with  
17 Heimbach of TWP?" He answers himself, "He," referring to  
18 Heimbach, "has gotten the National Socialist Movement,  
19 various Klan groups, and skinheads to unite behind him in the  
20 Nationalist Front."

21 Now, here is the League of the South member telling  
22 Anglin of the groups that are together in the Nationalist  
23 Front. "Everyone" -- "everyone," Griffin says -- "Everyone  
24 is coming to Charlottesville. The League has a private  
25 summer retreat reserved for the weekend outside of town.

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1 I've heard Dr. Duke is coming and will have some kind of  
2 surprise role. We're going to do the torchlight parade  
3 again."

4 This message, I submit to Your Honor, among  
5 co-conspirators charged here confirms that this was a modern  
6 Klan-inspired event, referring to the torchlight parade,  
7 which is, we submit, evocative of Klan and Nazi  
8 demonstrations of the past. And at least one of the  
9 co-conspirators conceded that reference. It demonstrates  
10 abundant evidence that the Unite the Right was all about  
11 racial animus and religious animus against blacks and their  
12 supporters.

13 Now, Mr. Jones says that there's actually no  
14 evidence found during discovery -- he says it at page 8 of  
15 his reply memorandum, no evidence developed during discovery  
16 to support -- the proposition, we say, was that Antifa's  
17 participation was as a supporter of the protected class.

18 I want to read, Your Honor, and refer you to  
19 Exhibit 14, which is a communication between Mr. Baker, Ike  
20 Baker, who is a member of the League and who I referred to  
21 before, after the -- right immediately after the fact, to one  
22 of the other members of the Nationalist Front. And this is  
23 evidence that Mr. Jones says was not discovered in this case.  
24 But it is. It was. There is evidence. And this is what Ike  
25 Baker says: "I have come to the sincere belief that we who

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1 were present at Charlottesville that day and who fought the  
2 Jew-directed Communist horde" -- I submit, referring to  
3 Antifa -- "were present for the very genesis of the  
4 resurrection of our folk."

5 You see, Your Honor -- and there's evidence  
6 throughout which we have cited in our brief -- the League of  
7 the South and other white nationalists view, correctly or  
8 incorrectly, that Antifa is Jewish-directed, that it is --  
9 but it is -- it is a supporter of the blacks and the Jews.

10 And, Your Honor, in the *Griffin* case, in the *Griffin*  
11 case, the evidence -- the Supreme Court opinion says very  
12 explicitly that the two brothers Breckenridge were not --  
13 actually misunderstood the facts and the victims that they  
14 beat up weren't civil rights workers. But the Court said  
15 that didn't matter.

16 So, too, Your Honor, even if not all Antifa members  
17 or participants are supporters of Jews, the defendants  
18 understand and believe that Antifa is Jew-directed.

19 And one more piece of evidence, Your Honor, that  
20 this is hardly -- was hardly a political rally. I want to  
21 read to you from Exhibit 78, which is, I submit, searing --  
22 S-E-A-R-I-N-G -- searing testimony from one of the plaintiffs  
23 about the torch march on Friday night. Natalie Lynn Romero  
24 at page 18 testified at her deposition: "Well, I arrived  
25 with a group of my friends. So we decided to, you know, stay

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1 by the statue and say, 'This is our university.' So there  
2 were not too many of us and we decided, let's kind of link  
3 our arms around the statue."

4 And then several pages -- several lines later: "I  
5 wasn't aware that they were going to have lit torches. You  
6 know, I was -- it felt kind -- afterwards, I felt kind of:  
7 Oh, my gosh, why did I have my arms around the statue? A  
8 fight broke out in front of me and I was being yelled at. I  
9 was one of the only people of color on that side of the  
10 statue, alone with other people of color next to me, and we  
11 started getting yelled at, being told, you know, things that  
12 definitely felt racially, like, very much directed towards me  
13 and my friend, you know, telling us to go back to where we  
14 came from."

15 And then several sentences later, she says: "Then a  
16 fight broke out in front of us that felt very violent because  
17 they threw tiki torches and they landed right at my feet,  
18 where I had to jump onto the statue. You know, there were  
19 people with helmets."

20 Remember that J.C. Adams said that there would be a  
21 hate van filled with helmets.

22 "And there were people with things that looked like  
23 guns and lights that were really flashing, and bottles of  
24 stuff that were throwing, and there was mace coming from,  
25 like, a corner, just spraying us."

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1           So they may take the position that they were  
2 involved in a political rally, Your Honor, but we submit, at  
3 best, that's a question for the jury.

4           Finally, one last argument that Mr. Jones makes in  
5 his brief that he didn't make today, and that is that the  
6 violent beating of the black man, DeAndre Harris, on Market  
7 Street, at the entrance to the garage, was an isolated event.  
8 "A spontaneous encounter" is what Mr. Jones called it.

9           At the outset, Your Honor, the evidence shows that  
10 this violent beating was done by three or four men, one of  
11 whom was a member of the League of the South, Tyler Davis;  
12 who also is the same individual, Your Honor, that  
13 participated in the torch march that I mentioned before,  
14 Exhibit 147, which was a tweet of a picture of the torch  
15 march, where it said, "Still getting chills from this.  
16 Florida League was there that night."

17           So Tyler Davis was one of the three or four people  
18 beating DeAndre Harris.

19           And Exhibit 103, Your Honor, is actually the beating  
20 in progress. It's a still photo. It's very chilling, I  
21 submit. It shows three or four men over him with sticks,  
22 pummeling him. And DeAndre Harris suffered a fractured  
23 skull, broken vertebrae, and a broken arm.

24           And very important, Your Honor, in that photo --  
25 it's Exhibit 103 -- looking over that beating, Your Honor, is

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1 the defendant Michael Tubbs.

2 They actually have the audacity to argue that it was  
3 a spontaneous event and not an act in furtherance of the  
4 conspiracy. It's exactly the kind of violence that they  
5 advertised and promised that day, and the defendant Michael  
6 Tubbs is watching it happen.

7 And if that isn't enough to show that it was an act  
8 of violence in furtherance of the conspiracy, after the  
9 events of that day, the Charlottesville Police Department  
10 started a criminal investigation of that assault, and the  
11 League members learned -- Mr. Tubbs, Defendant Tubbs, learned  
12 that Tyler Davis, the League member, was actually under  
13 investigation. He went through League members' friends  
14 lists -- maybe from Facebook; I don't know how -- and he  
15 identified three members of the League who befriended -- who  
16 were friends of this Tyler Davis under investigation.

17 Exhibits 126, 127, and 128 are what are -- are text  
18 chats between the defendant Tubbs and three members of the  
19 League: One Bryan McCoy, M-c-C-O-Y, at page -- the Bates  
20 number is 218; one member, Charlene, C-H-A-R-L-E-N-E, Braun,  
21 B-R-A-U-N, and that's at Bates number 250; and Exhibit 128,  
22 Your Honor, is -- I don't have the individual, but it is  
23 number 245 -- oh, Jessica Reavis, R-E-A-V-I-S. In each of  
24 those three text chats, the defendant Tubbs is saying to the  
25 League member, "You are friends with Tyler Davis. The feds

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1 apparently have possession of his phone. And," quote,  
2 "'Tyler,'" close quote, has been friending people while he is  
3 in jail. You need to remove him from your friends list  
4 immediately and delete any conversations you might have had  
5 with him via Signal Messenger and other formats."

6 So this is the very defendant. And Tyler Davis is a  
7 member of the Florida League, the same Florida League that  
8 participated in the torch march. The defendant Tubbs is part  
9 of the Florida League chapter.

10 So I submit there's abundant circumstantial evidence  
11 of Tubbs' involvement with the Florida League that applies to  
12 the torch march, and abundant evidence of his participation  
13 in this brutal beating that's an act in furtherance of the  
14 conspiracy.

15 Your Honor, I'm not sure what Mr. Jones is going to  
16 argue, but he moved to dismiss Counts Two and Three besides  
17 Count One. Count Two is the 1986 count. Count Three is the  
18 civil conspiracy count.

19 If Your Honor permits the 1985(3) count to go to the  
20 jury, those two counts follow based on the law, so I'm not  
21 going to spend any additional time arguing about Counts Two  
22 and Three.

23 Your Honor, in sum, in *Griffin*, in the *Griffin* case,  
24 the plaintiffs were pulled from their car and beaten at the  
25 side of the road by two brothers. At the same time, those



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1 brothers were making racist comments about and to them. The  
2 Court, the Supreme Court, Justice Stewart, said, quote, "The  
3 claims of detention, threats, and battery amply satisfy the  
4 requirement of acts done in furtherance of a conspiracy."

5 We have, Your Honor, detention, threats, and battery  
6 on a much grander scale here. The torch march, the rally on  
7 Saturday, the car attack by Fields, much grander scale of  
8 violence; abundant evidence that these three defendants --  
9 Hill, Tubbs, and League of the South -- were co-conspirators  
10 involved in this conspiracy.

11 Your Honor, as -- Your Honor quoted Justice Stewart  
12 also from his opinion. As Justice Stewart said, "Indeed, the  
13 conduct here alleged lies so close to the core of the  
14 coverage intended by Congress that it is hard to conceive of  
15 wholly private conduct that would come within the statute if  
16 this does not," close quote.

17 We submit, Your Honor, that this is -- this is the  
18 case, what the statute was intended to punish.

19 I only have anything else if Mr. Jones says  
20 something that I haven't had an opportunity to respond to.

21 THE COURT: All right.

22 Mr. Jones?

23 MR. LEVINE: Thank you for your patience, Your  
24 Honor.

25 THE COURT: Thank you.

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1 Mr. Jones?

2 MR. JONES: Thank you, Your Honor. I will just  
3 address the two important points that -- the two arguments  
4 that I made at the beginning. I'll rest on my arguments in  
5 the motion and memorandum and in my reply for the other  
6 issues.

7 On the question of whether Fields conspired with  
8 anybody, plaintiffs are uncharacteristically brief. Page 38,  
9 39, and 40 in their response, they cite evidence simply  
10 showing that James Fields attended the rally and stood near  
11 members of Vanguard America.

12 Alan, Mr. Levine, mentioned several times that  
13 Thomas Russo said he considered James Fields a member.  
14 That's incorrect. That's a mischaracterization of the  
15 evidence. Mr. Russo never uttered those words. I urge Your  
16 Honor to actually look at the exhibits that plaintiffs have  
17 cited in support, pages 38, 39, and 40, on that point.

18 Fields did not conspire with anybody. Nobody knew  
19 who Fields was. They have no evidence that anybody knew him  
20 before the rally, that he participated in any conversations  
21 on Discord, and they have simply not provided sufficient  
22 evidence on that point.

23 Your Honor, on the torch march, Michael Hill,  
24 Michael Tubbs, and the League of the South, the national  
25 chapter, the national organization, are defendants, not Brad

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1 Griffin, not Tyler Davis, and not Florida League of the South  
2 members. The League -- plaintiffs simply have ignored the  
3 crucial piece of evidence on this point, which is the e-mail  
4 from J.C. Adams to Michael Hill where he says the League is  
5 not taking part in the torch march and they are sending  
6 observers.

7 Simply sending observers does not qualify as  
8 participation in a conspiracy.

9 And, finally, the torch march and the rally were two  
10 separate events. They occurred at different locations, for  
11 different purposes. Completely, two separate events.

12 If plaintiffs' conspiracy theory is accepted by the  
13 Court, then somebody who simply showed up at the rally on  
14 Saturday, August 12 as a member of some organization, all  
15 they had to do was show up at the rally and then they're  
16 liable. They're on the hook as a co-conspirator for whatever  
17 occurred the day before. That's simply not an accurate  
18 statement of what legally qualifies as a conspiracy. Courts  
19 have been careful to define conspiracies.

20 So, Your Honor, for those reasons, we would ask Your  
21 Honor to dismiss the conspiracy claims against the League of  
22 the South, Michael Hill, and Michael Tubbs.

23 I would finally -- Mr. Levine has accused me, three  
24 times at least, of being disingenuous. I do want to assure  
25 the Court and Mr. Levine that that is, in fact, not the case.

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1 I do take my responsibilities seriously. I know it's an  
2 emotional case for everybody. But I do -- I do hope that  
3 that is not how we conduct this case.

4 Thank you.

5 THE COURT: All right.

6 MR. LEVINE: Your Honor --

7 THE COURT: Let me ask you something about the  
8 National Front. What is the organization of the National  
9 Front? Is that an organized group with any particular  
10 organization?

11 MR. JONES: It's not -- so what it is, is the League  
12 and a couple other organizations formed, I guess, a loose  
13 alliance. TWP and NSM were part of the Nationalist Front,  
14 and they called themselves the Nationalist Front. It's not  
15 a -- it's not a -- for example, League of the South is  
16 actually an official corporation, corporate entity, but the  
17 Nationalist Front is not. It's just a loose alliance.

18 THE COURT: Okay. What's the relationship between  
19 the League and the Florida branch chapter?

20 MR. JONES: Your Honor, there are independent  
21 chapters in most southern states, and Florida has a chapter.  
22 It has its own leadership as well.

23 THE COURT: What's its connection, though, with  
24 Mr. Hill's group?

25 MR. JONES: To be honest, I don't think there's

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1 evidence on the record that speaks to that.

2 THE COURT: Okay. All right. Thank you.

3 MR. LEVINE: Your Honor, may I just respond?

4 THE COURT: To what?

5 MR. LEVINE: To some of the things that were said in  
6 answer to the Court's question.

7 THE COURT: Well, I'll give the -- Mr. Jones the  
8 last word, but just -- you can take a minute.

9 MR. LEVINE: Okay. Number one, in using the word  
10 "disingenuous," I'm using a professional word. I have only  
11 the utmost respect for Mr. Jones, and we've dealt very well  
12 together on this contentious case.

13 Your Honor, Defendant Fields didn't make a summary  
14 judgment motion here, and the plaintiffs don't have to show  
15 that he was involved in the planning before the Unite the  
16 Right rally weekend for him to be considered a member of the  
17 conspiracy and for his conduct to be acts in furtherance of  
18 the conspiracy. That is standard conspiracy law. And the  
19 fact -- it isn't that he showed up. It's that he showed up  
20 with them in their uniform. And Hopper and Russo both  
21 testified in their deposition that he was part of their  
22 group.

23 THE COURT: I think -- I think you've covered all of  
24 that --

25 MR. LEVINE: Okay.

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1 THE COURT: -- adequately.

2 MR. LEVINE: Finally, Your Honor --

3 THE COURT: Mr. --

4 MR. LEVINE: Finally, Dr. -- Defendant Hill did  
5 testify in his deposition that the League of the South is the  
6 umbrella organization; it has 16, I think, or so -- maybe  
7 fewer -- state chapters; that it is all organized as one  
8 organization. There are League activities in different  
9 states. Hill is the president of it all. The defendant  
10 Tubbs is the chief of staff for the whole League and is a  
11 member of the Florida League.

12 So we would submit, Your Honor, that the Florida  
13 League's activities and the activities of Griffin, J.C.  
14 Adams, and Baker, all members of the South, all participating  
15 that day, are directly attributable to both the League as a  
16 defendant here and Hill and Tubbs as defendants.

17 Thank you.

18 THE COURT: Okay. Thank you.

19 Mr. Jones, you get the last word.

20 MR. JONES: Thank you, Your Honor. I don't -- I  
21 would just submit that there is no evidence to support the  
22 claim that he showed up with Vanguard. When he got to the  
23 rally, he hung out with Vanguard, so...

24 THE COURT: All right. Thank you. All right.  
25 We'll recess court. I thank you all for your participation.

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1 Thank you.

2 MR. LEVINE: Thank you, Your Honor.

3 (Proceedings adjourned, 3:31 p.m.)

4 C E R T I F I C A T E

5 I, JoRita B. Meyer, RMR/CRR, Official Court Reporter for  
6 the United States District Court for the Western District of  
7 Virginia, appointed pursuant to the provisions of Title 28,  
8 United States Code, Section 753, do hereby certify that the  
9 foregoing is a correct transcript of the proceedings reported  
10 by me using the stenotype reporting method in conjunction  
11 with computer-aided transcription, and that same is a  
12 true and correct transcript to the best of my ability and  
13 understanding.

14 I further certify that the transcript fees and format  
15 comply with those prescribed by the Court and the Judicial  
16 Conference of the United States.

17 /s/ JoRita B. Meyer

Date: 11/5/2020

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